

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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DECEMBER 10, 1999

Crim. No. C030786	THE PEOPLE v. RONALD LYNN FITZGERALD The judgment is affirmed.	(Not for Publication)  BLEASE, Acting P.J.
	We concur: DAVIS, J. CALLAHAN, J.	

Crim. No. C026595	THE PEOPLE v. THOMAS CRATER ROBINSON Defendant Robinson's abstract of judgment is modified to reflect that the conviction on count 1 is for second degree attempted robbery and the \$10,000 restitution fine imposed against each defendant is stricken. In all other respects the judgments are affirmed.	(Not for Publication)  RAYE, Acting P.J.
	We concur: MORRISON, J. CALLAHAN, J.	

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
DECEMBER 10, 1999, CONTINUED**

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Crim. THE PEOPLE (Not for Publication)  
No. v.  
C026962 ANDREW COREZ CRATER

Defendant Robinson's abstract of judgment is modified to reflect that the conviction on count 1 is for second degree attempted robbery and the \$10,000 restitution fine imposed against each defendant is stricken. In all other respects the judgments are affirmed.

RAYE, Acting P.J.

We concur: MORRISON, J.  
CALLAHAN, J.

Crim. JAMES SCOTT BARRETT (Not for Publication)  
No. v.  
C030752 THE SUPERIOR COURT OF YOLO COUNTY

THE PEOPLE

Let a peremptory writ of mandate issue directing respondent superior court to vacate its order denying the peremptory challenge to the Honorable Timothy J. Fall, and to enter an order disqualifying Judge Fall from presiding in any proceedings in *People of the State of California v. James Scott Barrett*, Yolo County Superior Court No. 97004510. Upon finality of this decision, the previously issued stay is vacated.

SCOTLAND, P.J.

We concur: BLEASE, J.  
KOLKEY, J.

Civil ATALANTA CORPORATION  
No. v.  
C033889 GRETCHEN MOONEY

Respondent's motion to dismiss the appeal is granted. The notice of appeal filed October 8, 1999, is dismissed. (See Cal. Rules of Court, rule 41(c).)

Dated: December 10, 1999

SCOTLAND, P.J.

**MINUTES OF THE COURT OF APPEAL**  
**STATE OF CALIFORNIA**  
**THIRD APPELLATE DISTRICT**  
DECEMBER 13, 1999

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At 9:31 a.m., the court met in the Library & Courts Building to begin its court calendar session.

PRESENT: DAVIS, Acting Presiding Justice  
RAYE, Associate Justice  
CALLAHAN, Associate Justice

Bailiff: Rios  
Calendar called.

Crim. THE PEOPLE  
No. v.  
C027148 CLARENCE LEE KING

Linda M. Leavitt, court appointed counsel, argued for Defendant-Appellant. David A. Rhodes, Deputy Attorney General, argued for Plaintiff-Respondent. Cause submitted

At 10:00 a.m., court recessed. At 10:03 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Davis, and Associate Justice Callahan.

Crim. THE PEOPLE  
No. v.  
C027685 FRANK JOSEPH LOMASCOLA

Cause called. There was no appearance for Defendant-Appellant by Laurance Smith, court appointed counsel. David A. Rhodes, Deputy Attorney General, argued for Plaintiff-Respondent. Cause submitted.

At 10:21 a.m., court recessed. At 10:24 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Davis, and Associate Justice Raye.

Crim. THE PEOPLE  
No. v.  
C031655 MATIAS GONZALEZ UNZUETA

Cause called. Michael A. Goldstein, argued for Defendant-Appellant. No appearance on behalf of Plaintiff-Respondent, a waiver of appearance having been previously approved. Cause submitted.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
DECEMBER 13, 1999, CONTINUED**

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At 10:24 a.m., court recessed. At 10:27 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Raye, and Associate Justice Kolke.

Crim. THE PEOPLE  
No. v.  
C029612 ROBERT LAWRENCE McCORMACK

Cause called. Gregory W. Brown, Deputy State Public Defender, argued for Defendant-Appellant. Mark A. Johnson, Deputy Attorney General, argued for Plaintiff-Respondent. Cause submitted.

At 10:55 a.m., court recessed. At 2:00 p.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Davis, and Associate Justice Callahan.

Civil FARMERS' RICE COOPERATIVE  
No. v.  
C032667 WORKERS' COMPENSATION APPEALS BOARD et al.

Cause called. Richard A. Weyuker argued for Petitioner. Michael S. Geller argued for Respondent Margaret Dias et al. There was no appearance on behalf of Respondent Workers' Compensation Appeals Board. Cause submitted.

Crim. THE PEOPLE  
No. v.  
C031004 VICTOR MELVIN STARK, JR.

Cause called. David S. Adams, Deputy State Public Defender, argued for Defendant-Respondent. R. Todd Marshall, Deputy Attorney General, argued for Plaintiff-Respondent. Cause submitted.

At 2:55 p.m., court adjourned until Thursday, December 16, 1999, at 9:30 a.m.

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Civil THE PEOPLE  
No. v.  
C031077 MARCO VINCENT OSBY

(Not for Publication)

CALLAHAN, J.

We concur: BLEASE, Acting P.J.  
DAVIS, J.

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We concur: SCOTLAND, P.J.  
DAVIS, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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TUESDAY, DECEMBER 14, 1999, CONTINUED

Juvenile      In re GREGORY G., a Person Coming Under the Juvenile Court  
No.              Law.  
C033299      -----

VERNE L. SPEIRS, as Chief Probation Officer, etc.  
(Not for Publication)

v.  
GREGORY G. and KATHERINE G.  
The judgment is affirmed.

SCOTLAND, P.J.

We concur: DAVIS, J.  
MORRISON, J.

Civil            In re the Marriage of REX T. and DIANA KEARNEY.  
No.              ----- (Not for Publication)  
C028674      REX T. KEARNEY, JR.

v.  
DIANA M. KEARNEY

The order dismissing the motion for modification of spousal support is reversed. The order awarding Diana attorney fees is reversed and the matter remanded to reconsider the award of attorney fees, and for further proceedings in accordance with this opinion. The parties shall bear their own costs on appeal.

MORRISON, J.

We concur: BLEASE, Acting P.J.  
DAVIS, J.

Crim.           THE PEOPLE                              (Not for Publication)  
No.              v.  
C032051      ROBERT CARL HILL

The judgment is affirmed.

CALLAHAN, J.

We concur: NICHOLSON, Acting P.J.  
KOLKEY, J.



**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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WEDNESDAY, DECEMBER 15, 1999, CONTINUED

Civil	CRYSTAL M.	(Not for Publication)
No.	v.	
C034011	THE SUPERIOR COURT OF SHASTA COUNTY SHASTA COUNTY DEPARTMENT OF SOCIAL SERVICES, et al.	
	The petition is denied.	
		SIMS, Acting P.J.
	We concur: NICHOLSON, J. MORRISON, J.	

Civil	ROBYN M.	(Not for Publication)
No.	v.	
C034030	THE SUPERIOR COURT OF SUTTER COUNTY SUTTER COUNTY DEPARTMENT OF HUMAN SERVICES et al.	
	The petition is denied.	
		SIMS, Acting P.J.
	We concur: NICHOLSON, J. MORRISON, J.	

Crim	THE PEOPLE	(Not for Publication)
No.	v.	
C032777	DOUGLAS SCOTT WILLIAMS	
	The judgment is affirmed. The trial court is directed to calculate the custody credits as set forth in the opinion, to amend the abstract of judgment accordingly, and to forward a copy of the amended abstract to the Department of Corrections.	
		CALLAHAN, J.
	We concur: NICHOLSON, Acting P.J. MORRISON, J.	



**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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WEDNESDAY, DECEMBER 15, 1999, CONTINUED

MISC. ORDER  
99-10

BY THE COURT:

Associate Justice Coleman A. Blease is appointed to serve as Acting Presiding Justice to discharge the duties described in Rules 75, 76, 77 and 78 of the California Rules of Court during the absence of the Presiding Justice from the court for the period of December 27, 1999, through January 3, 2000, or until his return. (See Cal. Const. Art. 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

THURSDAY, DECEMBER 16, 1999

Crim. No. C030393	THE PEOPLE v. DAN RICHARD WORKMAN The judgment is affirmed.	(Not for Publication)
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We concur: BLEASE, Acting P.J.  
RAYE, J.

KOLKEY, J.

Crim. No. C032307	THE PEOPLE v. GUILLERMO GUZMAN RAMIREZ The judgment is affirmed.	(Not for Publication)
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We concur: DAVIS, Acting P.J.  
RAYE, J.

CALLAHAN, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
THURSDAY, DECEMBER 16, 1999, CONTINUED**

10

Civil                    VIRGILIA BASILIO                    (Not for Publication)  
No.                    v.  
C032535            CAMRAY DEVELOPMENT AND CONSTRUCTION CO.,  
INC., ET AL.

The judgment is affirmed with respect to the dismissal of plaintiff's claim of age discrimination. The judgment is reversed with respect to the dismissal of her claim of employment discrimination based on physical disability. The cause is remanded to the trial court with directions to vacate its order sustaining Camray's demurrer to plaintiff's cause of action for discrimination based upon physical disability and to enter a new order overruling the demurrer. In light of the reversal, that part of the judgment awarding Camray its costs, including reasonable attorney fees, must also be reversed. (cite) The parties shall bear their own costs on appeal.

KOLKEY, J.

We concur:    SIMS, Acting P.J.  
                     RAYE, J.

Civil                    MICHAEL A. DAVIS                    (Not for Publication)  
No.                    v.  
C031493            FREDERICK WENCK

The judgment is affirmed.

HULL, J.

We concur:    SCOTLAND, P.J.  
                     CALLAHAN, J.

Civil                    SHELLEY LOUISE WRIGLEY et al.    (Not for Publication)  
No.                    v.  
C024521            MALLARD'S FOOD PRODUCTS

The judgment is affirmed. Defendant shall recover its costs on appeal.

KOLKEY, J.

We concur:    SIMS, Acting P.J.  
                     MORRISON, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
DECEMBER 16, 1999, CONTINUED**

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Civil           IRMA D. HARRIS  
No.            v.  
C034334       MICHAEL Y. WONG, et al.

On the court's own motion, the appeal filed November 24, 1999, is dismissed....Because the appeal is dismissed, the petition for writ of supersedeas is moot and is also dismissed.

BLEASE, Acting P.J.

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At 9:33 a.m., the court met in the Library & Courts Building to begin its court calendar session.

PRESENT:   SIMS, Acting Presiding Justice  
              DAVIS, Associate Justice  
              NICHOLSON, Associate Justice

Bailiff: Rios  
Calendar called.

Civil           TJ VAN HOOZER  
No.            v.  
C030646       COUNTY OF PLACER

Cause called. Sylvia Velez argued for Plaintiff-Appellant. Valerie D. Flood, County Counsel, argued for Defendant-Respondent. Cause submitted.

At 10:04 a.m., court recessed. At 10:06 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Nicholson, and Associate Justice Raye.

Civil           CHANNEL LUMBER COMPANY, INC.  
No.            v.  
C028587       MICHAEL W. GARNETT

Cause called. Charles L. Post argued for Plaintiff-Appellant. Betsy S. Kimball argued for Defendant-Respondent. Cause submitted.

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We concur: DAVIS, Acting P.J.  
CALLAHAN, J.

## 13

DECEMBER 17, 1999, CONTINUED

Crim. THE PEOPLE  
No. v.  
C030316 JAMES GRANKLIN POLAND

Appellant's petition for rehearing is denied.  
Dated: December 17, 1999 SIMS, Acting P.J.

Civil THE STATE OF IDAHO ex rel. (Not for Publication)  
No. DEPARTMENT OF HEALTH AND WELFARE  
C030559 v.  
WESLEY MUSHRUSH

The judgment (order confirming registration) is affirmed. Defendant shall bear his own costs on appeal.

CALLAHAN, J.

We concur: BLEASE, Acting P.J.  
DAVIS, J.

Civil In re ADDAM C., et al., Persons (Not for Publication)  
No. Coming Under the Juvenile Court Law.  
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C032927 SACRAMENTO COUNTY DEPARTMENT OF HEALTH  
AND HUMAN SERVICES  
v.  
CYNTHIA C.  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur: DAVIS, J.  
MORRISON, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
DECEMBER 17, 1999, CONTINUED**

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Civil            In re STEVEN W., a Person Coming            (Not for Publication)  
No.            Under the Juvenile Court Law.

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C032199       DEPARTMENT OF HEALTH AND HUMAN SERVICES  
                 v.  
                 ANGELA W.

                 It is ordered that the opinion filed herein on November 22, 1999, be  
modified ....This modification does not change the judgment. Respondent  
DHHS's petition for rehearing is denied.

FOR THE COURT: SCOTLAND, P.J.

                 DAVIS, J.

                 MORRISON, J.

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                 At 9:31 a.m., the court met in the Library & Courts Building to begin  
its court calendar session.

PRESENT:   SCOTLAND, Presiding Justice

                 RAYE, Associate Justice

                 KOLKEY, Associate Justice

Bailiff: Rios  
Calendar called.

Civil            LYDIA RAMIREZ et al.  
No.            v.  
C029636       CASHA RESOURCE HOME HEALTH SERVICES, INC.

                 Cause called. Blair M. White argued for Plaintiffs-Appellants. No  
appearance on behalf of Defendant-Respondent, argument having been  
previously waived. Cause submitted.

Civil            BANK OF AMERICA  
No.            v.  
C029754       RENE JENNETT

                 Cause called. Martin Glickfeld argued for Defendant-Appellant.  
Lyle R. Nishimi argued for Plaintiff-Respondent. Cause submitted.

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We concur: RAYE, J.  
KOLKEY, J.

## 16

BLEASE, J.



**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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DECEMBER 20, 1999, CONTINUED

Civil                    In re MYKLE R., a Person Coming                    (Not for Publication)  
No.                    Under the Juvenile Court Law.

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C031649            DEPARTMENT OF HEALTH AND HUMAN SERVICES  
                         v.  
                         ERMA G.

The judgment and orders are affirmed.

CALLAHAN, J.

I concur:            SCOTLAND, P.J.

I concur in the judgment and opinion except as to part II, as to which I  
concur in the result.

BLEASE, J.

Civil                    STAN FRANKLIN    (Not for Publication)  
No.                    v.  
C033989            THE SUPERIOR COURT OF SACRAMENTO COUNTY

KELLY BEREMAND

Let a peremptory writ of mandate issue.... Upon this decision  
becoming final, the stay previously imposed by this court is vacated.  
Defendant shall recover his costs incurred in this writ proceeding. (Citation)

SCOTLAND, P.J.

We concur:    DAVIS, J.  
                         CALLAHAN, J.

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At 9:30 a.m., the court met in the Library & Courts Building to begin  
its court calendar session.

PRESENT:    SIMS, Acting Presiding Justice  
                 MORRISON, Associate Justice  
                 HULL, Associate Justice

Bailiff: Conrad  
Calendar called.

## 18

Civil                    JACOB ELLIOTT  
No.                      v.  
C031363                COUNTY OF EL PASO

Crim	THE PEOPLE	(Not for Publication)
No.	v.	
C027148	CLARENCE LEE KING	

Crim	THE PEOPLE	(Not for Publication)
No.	v.	
C031004	VICTOR MELVIN STARK, JR.	

Civil            MILBURN REED, As Trustee, etc.,            (Not for Publication)  
No.            et al.  
C032312    v.

We concur: SCOTLAND, P.J.  
DAVIS, J.

## 19

DECEMBER 21, 1999, CONTINUED

Civil L. LAURELLE DANTON (Not for Publication)  
No. v.  
C031945 THE BOARD OF EXAMINERS IN VETERINARY MEDICINE  
The judgment is affirmed. The Board shall recover costs on  
appeal.  
RAYE, J.  
We concur: SCOTLAND, P.J.  
DAVIS, J.

Crim.	THE PEOPLE	(Not for Publication)
No.	v.	
C031655	MATIAS GONZALEZ UNZUETA	
	The judgment is affirmed.	
		RAYE, J.
	We concur: BLEASE, Acting P.J.	
	DAVIS, J.	

DECEMBER 22, 1999

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C031266 DANNY ROBLES CHAVEZ, JR.  
The judgment (order) is reversed.  
BLEASE, J.  
We concur: SCOTLAND, P.J.  
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C032359 TERRELL BOLTON

The trial court is directed to prepare an amended abstract of judgment.... As modified, the judgment is affirmed.

SIMS, Acting P.J.

We concur: NICHOLSON, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
KOLKEY, J.**

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DECEMBER 22, 1999, CONTINUED

Civil                    KARL F. JACOBSON, JR.                    (Not for Publication)  
No.                    v.  
C030364              LOUIS W. BARNETT, etc., et al.

The orders granting terminating sanctions in favor of Guidera, Parkison, Barnett, Lee and Vasquez are affirmed, and the appeal from the order denying KFJ's motion for reconsideration is dismissed. Respondents shall recover their costs on appeal.

DAVIS, Acting P.J.

We concur:   HULL, J.  
                    KOLKEY, J.

Civil                    CHANNEL LUMBER COMPANY, INC.           (Not for Publication)  
No.                    v.  
C028587              MICHAEL GARNETT et al.

The judgment is affirmed. Defendants and respondents shall recover costs on appeal.

RAYE, J.

We concur:   SCOTLAND, P.J.  
                    NICHOLSON, J.

Civil                    BANK OF AMERICA NATIONAL TRUST AND SAVINGS  
                             ASSOCIATION  
No.                    v.  
C029754              RENE JENNETT

The judgment is affirmed. Respondent shall recover its costs on appeal. (CERTIFIED FOR PUBLICATION)

KOLKEY, J.

We concur:   SCOTLAND, P.J.  
                    RAYE, J.

Crim.                  THE PEOPLE  
No.                    v.  
C028843              GEORGE WALTER CRATTY

The judgment is affirmed. (CERTIFIED FOR PUBLICATION)

DAVIS, J.

We concur:   SIMS, Acting P.J.  
                    RAYE, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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DECEMBER 22, 1999, CONTINUED

Civil	K-MART	(Not for Publication)
No.	v.	
C032700	WORKERS' COMPENSATION APPEALS BOARD and SANDRA WORSTMAN	

The Board's order denying reconsideration is vacated. The matter is remanded for further proceedings in accordance with this opinion. The parties shall bear their own costs incurred in this court.

SIMS, J.

We concur: SCOTLAND, P.J.  
HULL, J.

Civil	FELICIA W.	(Not for Publication)
No.	v.	
C034102	THE SUPERIOR COURT OF SACRAMENTO COUNTY	

SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES et al.

The petition and request for a stay are denied.

SIMS, Acting P.J.

We concur: RAYE, J.  
KOLKEY, J.

Crim.	JAMES SCOTT BARRETT
No.	v.
C030752	THE SUPERIOR COURT OF YOLO COUNTY

THE PEOPLE

The opinion in the above-entitled matter filed December 10, 1999, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. CERTIFIED FOR PUBLICATION.

FOR THE COURT: SCOTLAND, P.J.  
BLEASE, J.  
KOLKEY, J.

## 22

No. v.  
C033384 PERMANENTE MEDICAL GROUP., INC.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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The court having examined the record on appeal and having determined that the order appealed from is nonappealable, the appeal filed August 11, 1999, is dismissed.

Dated: December 23, 1999 SCOTLAND, P.J.

DECEMBER 23, 1999, CONTINUED

Civil STEVEN SHAMBLIN et al  
No. v.  
C033784 PROWEST PCM, INC.

The court having examined the record and having determined that the order appealed from is nonappealable, the appeal filed September 24, 1999, is dismissed. (citation)

Dated: December 23, 1999 SCOTLAND, P.J.

Civil OPERATING ENGINEERS UNION LOCAL NO. 3, et al.  
No. v.  
C033999 CITY OF COLFAX

MANUAL BROTHERS, INC.

The court having examined the record on appeal and having determined that the order appealed from is nonappealable, the appeal filed October 25, 1999, is dismissed.

Dated: December 23, 1999 SCOTLAND, P.J.